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SENATE BILL 590

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Timothy Z. Jennings

AN ACT

MAKING AN APPROPRIATION TO THE COMMISSIONER OF PUBLIC LANDS TO
PREPARE AND FILE AN ORIGINAL ACTION IN THE UNITED STATES
SUPREME COURT AGAINST THE UNITED STATES DEPARTMENT OF THE
INTERIOR AND THE UNITED STATES DEPARTMENT OF AGRICULTURE FOR
THE PURPOSE OF OBTAINING TITLE TO PUBLIC LANDS IN NEW MEXICO;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. LEGISLATIVE FINDINGS- - APPROPRIATION. - -

A. The legislature finds that:

(1) on January 6, 1912, New Mexico was
admitted to statehood on the condition that it forever disclaim
all right and title to unappropriated public land within its
boundaries;

(2) the state of New Mexico has strong moral,

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1 historical, economic and legal claims upon the public land
2 retained by the federal government within its borders;

3 (3) the federal government reserved no lands
4 within the original thirteen colonies;

5 (4) there is no indication that the framers of
6 the constitution intended for the federal government to retain
7 and hold title to public lands indefinitely or that it has the
8 power to do so;

9 (5) the Tenth Amendment to the United States
10 constitution provides that powers not delegated to the United
11 States by the constitution, nor prohibited by it to the states,
12 are reserved to the states respectively, or to the people;

13 (6) the fact that New Mexico and other states,
14 especially western states and others admitted to statehood in
15 recent times, were forced to renounce any claim to the
16 unappropriated lands within their boundaries violates the
17 "equal footing doctrine", because New Mexico and the other
18 states were denied admission to the union on an equal footing
19 with the original states;

20 (7) the doctrine of admission to statehood on
21 an equal footing with the other states is based on the very
22 character and purpose of the union of the states as established
23 by the United States constitution and is supported by early
24 case law and precedent and other governmental actions;

25 (8) the public lands in New Mexico, if held in

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1 trust for the people by the commissioner of public lands, would
2 increase state revenues by over two hundred fifty million
3 dollars (\$250,000,000) per year;

4 (9) state administration of public lands would
5 result in a more coordinated and fair management of public
6 lands, which would benefit economic development throughout the
7 state and enhance the lifestyle of all New Mexicans;

8 (10) the public lands should be administered
9 by the commissioner of public lands in such a manner as to
10 conserve and preserve natural resources, wildlife habitat,
11 wilderness areas and historical sites and artifacts and to
12 permit the development of compatible public uses for
13 recreation, agriculture, ranching, mining and timber production
14 and the development, production and transmission of energy and
15 other public utility services under principles of multiple use
16 that provide the greatest benefit to the people of the state;

17 (11) the states of the union and their
18 residents are better equipped than the federal government to
19 make the often difficult policy decisions that are necessary
20 with respect to the appropriate uses to which the lands within
21 the states should be put;

22 (12) Article 3, Section 2 of the United States
23 constitution provides that the United States supreme court has
24 original jurisdiction in actions in which the state is a party;
25 and

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(13) an action should be brought by the commissioner of public lands in the United States supreme court to gain title in the name of the state to public lands within New Mexico.

B. Two hundred fifty thousand dollars (\$250,000) is appropriated from the general fund to the commissioner of public lands for expenditure in fiscal years 2003 through 2005 for the purpose of preparing and filing an action in the United States supreme court against the United States department of the interior and the United States department of agriculture to gain title to the public lands within this state that are now subject to the jurisdiction of those agencies. Any unexpended or unencumbered balance remaining at the end of fiscal year 2005 shall revert to the general fund.

C. Any contracts for legal services entered into by the commissioner of public lands in carrying out the provisions of this section shall not be subject to review or approval by the attorney general or, except for such review as is necessary to ensure compliance with state financial controls, the department of finance and administration.

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.